

Futurepast:[®] Inc.

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February 17, 2004

Office of Policy and International Affairs
Office of Electricity and Natural Gas Analysis, PI-23
Attention: Voluntary Reporting Comments
U.S. Department of Energy
Forrestal Building, Room 7H-034
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Re: 68FR234, pp. 68204-68231 “General Guidelines for Voluntary Greenhouse Gas Reporting: Proposed Rule”

Dear Sir/Madam:

Futurepast appreciates the opportunity to provide comments to the Department of Energy (DOE) as it considers its proposed new rule to modify the Voluntary Reporting of Greenhouse Gases Program (VRGGP).

Background on Futurepast: Inc.

Futurepast: Inc. is an Arlington, VA – based environmental management firm that provides consulting, training and auditing services to clients worldwide. We specialize in environmental management systems (EMS) based on ISO 14001¹ and in greenhouse gas inventory management and verification based on the emerging ISO 14064 Greenhouse Gas standard. Futurepast’s president serves as a US Expert to ISO Technical Committee 207, Working Group 5 (Climate Change), where he has represented the American National Standards Institute at international meetings held in South Africa, Germany, Malaysia, and Indonesia. At the international level, he is also a liaison representative to Working Group 5 from ISO Technical Committee 207, Subcommittee 2 on Auditing and related investigations.

Futurepast Comments on Section 300.11 Independent Verification

Paragraph (a)

Paragraph (a) of the proposed subsection encourages but does not require annual reports to be verified by independent and qualified auditors. The rationale for making verification optional is that greenhouse gas reporting under 1605b is voluntary and not required. However, for

¹ ISO is the International Organization for Standardization, which develops voluntary, consensus-based standards. ISO is headquartered in Geneva, Switzerland.

registered greenhouse gas emission reports to have credibility, verification is necessary. Since section 300.11 addresses only “independent verification,” rather than the broader topic of verification itself, it misses the opportunity to provide guidelines for verification that could be done either by the reporting entity itself, or by an independent verifier. We believe DOE should consider broadening Section 300.11 to address “Verification,” and should redraft the guidelines in ways that would accommodate multiple approaches to verification.

The current Committee Draft of ISO 14064, Part 1, which provides a “Specification for the quantification, monitoring and reporting of organization emissions and removals,” provides an example of the linkage between reporting and verification. Section 8 of that standard begins by stating, “Organizations should verify conformance to requirements of this International Standard on a regular basis.” Note that the word “should” does not make verification mandatory for greenhouse gas quantification and reporting, but it does establish an expectation that verification will occur. The paragraph continues with the following sentence: “The organization should determine the need for first party (internal), second party (greenhouse gas scheme administrator, client), or third party (independent external) verification based on requirements of the greenhouse gas scheme in which they are operating, internal reporting needs, or the intended use for the greenhouse gas inventory.”

The remainder of section 8 of ISO/CD 14064-1 describes steps that organizations should undertake in preparing for third-party verification and for conducting first-party (internal) verification. The last subsection addresses “competence of internal verifiers,” which the draft standard says should be “demonstrated through appropriate education, training, skills, and experience.” Organizations are also advised to select internal verification personnel “who are administratively independent of the operations subject to verification to ensure objectivity and impartiality in the verification process.”

To summarize, the citations from ISO/CD 14064-1 suggest that DOE should broaden its view of verification, and acknowledge in the proposed rule that

1. Verification is an essential component of greenhouse gas quantification, monitoring and reporting
2. Organizations have options with respect to verification, e.g. that they may rely upon first-party verification, or upon second- or third-party verification, depending upon the uses to which they expect their reported data to be put and the level of assurance required or desired.

Sub-Paragraph (a) (1)

In this subparagraph, “independence” is said to exist when verifiers are not “owned” by the reporting entity. This implies, but does not state explicitly, that “verifiers” are deemed to be themselves an organization, such as a partnership or corporation, since individuals are not properly described as “owned.”

However, independence is a characteristic that can apply to verifiers whether or not they are internal or external to an organization. The fact that a verifier is employed by an entity separate from the entity being audited does not ensure independence, except on a presumptive basis. The admonition against verifiers providing “any ongoing operational or support services to the entity except services consistent with independent financial accounting or independent certification of compliance with government or private standards” makes an attempt at addressing what is generally referred to as a “conflict of interest.” Recent history suggests, however, that the criteria specified are not in themselves sufficient to ensure either “independence” or the existence of a conflict of interest.

ISO 19011:2002, “Guidelines for quality and/or environmental management systems auditing,” lists “independence” as a principle relating to an audit, “which by definition is independent and systematic.” Principle (d) of clause 4 of ISO 19011 states that independence is “the basis for the impartiality of the audit and objectivity of the audit conclusions,” and goes on to say “Auditors are independent of the activity being audited and are free from bias and conflict of interest. Auditors maintain an objective state of mind throughout the audit process to ensure that the audit findings and conclusions will be based only on the audit evidence.”

To summarize, subparagraph (a) (1) misses the point about independence. Independence does not depend upon the nature of the corporate relationship between reporting entity and the firm employing the verifier, but rather upon the competence and integrity of the verifier and the actual absence of bias and conflict of interest.

Sub-Paragraph (a) (2)

This paragraph does not make clear whether DOE intends that individual verifiers should be professionally accredited, or whether the companies that employ them should be accredited. The examples cited of nationally recognized certification programs do not clarify intent, and suggest the availability of accreditation programs that do not currently exist.

If the paragraph is intended to apply to individuals, then it could be read as suggesting that an individual verifier would be qualified if he/she were a Certified Public Accountant, a Registrar Accreditation Board [not ANSI-RAB NAP—that’s a different program] (RAB)–accredited Environmental Management Systems auditor, or a Board of Environmental, Health and Safety Auditor Certification (BEAC)–accredited auditor.

The problem with that reading of the paragraph is that passing a CPA exam or possessing the qualifications to audit health/safety/environmental management systems do not necessarily qualify an individual to verify greenhouse gas reports. Additional competence and/or training are required. At present, none of the three organizations cited have specific accreditation programs that provide professional accreditation for individuals in greenhouse gas verification.

However, the paragraph can be read to refer to organizations employing verifiers, as is suggested by the reference to the ANSI-RAB NAP. That program accredits organizations

that issue certificates of registration to environmental management systems standards such as ISO 14001. In issuing certificates, “registrars” are required to have in place a quality management system, follow ISO conformity assessment standards, and adhere to guidance from the International Accreditation Forum. In such cases, registrar organizations have in place systems to assess competency of individual verifiers and to assure freedom from bias and conflict of interest.

At present, the ANSI-RAB NAP does not have a program to accredit registrars for greenhouse gas verification engagements. While ISO/CASCO (Conformity Assessment Committee) and the International Accreditation Forum (IAF) have not yet issued standards or guidance for this activity, both are liaison members of ISO Technical Committee 207 Working Group 5, and may develop relevant standards/guidance in the future. But at present, the greenhouse gas accreditation “infrastructure” is still in its infancy, with scattered exceptions such as the Clean Development Mechanism (CDM) Executive Board’s accreditation of “operating entities” (third-party verifiers) or the California Energy Commission’s accreditation of “certifiers” for its registry program.

In the accounting arena, some firms are active as greenhouse gas verifiers. However, accounting firms are not accredited and monitored for greenhouse gas verification activities in the same way that registrars are accredited and monitored for their issuance of EMS certificates of registration. Instead, reliance for competency assessment of individual auditors depends upon their or their firms adherence to professional standards and codes of practice, on the exercise of internal quality controls, and on periodic oversight from outside peer reviewers. Individual CPAs are not tested specifically for their knowledge of greenhouse gas attestation services. However, guidelines for conducting greenhouse gas verification engagements have been developed and issued by the American Institute of Certified Public Accountants.

In summary, DOE should make clear whether it expects individual verifiers to demonstrate competency in greenhouse gas verification, or require accreditation of the firms that employ them. If it is the former, then having credentials as an EMS auditor from RAB or BEAC, or being a CPA, should not be considered sufficient. The validity of this comment is suggested by paragraph (b) that states that the verifier “must provide a written description of the relevant qualifications and professional certifications of the persons that performed the independent verification . . .” In the near term, DOE is likely not in the position with the limited current number of greenhouse gas reporters to be able to “force the market” to develop accreditation programs for greenhouse gas verifiers or firms that employ them. However, because of the importance of climate change, the institutional infrastructure is evolving, albeit slowly, and DOE should monitor it on a periodic basis to determine whether changes to the guidelines can be made to take advantage of new programs for professional accreditation of individuals or for accreditation of companies providing third-party verification services.

Recommendations

For now, Futurepast recommends that DOE revise section 300.11 in the following ways:

1. Rename the section “Verification”
2. Strongly recommend that reporting entities verify their greenhouse gas reports, and require verification (first-, second-, or third-party) for entities wishing to register their emission reductions
3. Make reference to ISO/CD 14064 Greenhouse gases, Part 1: Specification for the quantification, monitoring and reporting of organization emissions and removals, for guidance on first-party verification
4. Make reference to ISO/CD 14064 Greenhouse gases, Part 3: Specification with guidance for validation, verification and certification, and to the American Institute of Certified Public Accountants’ “Attest engagements on greenhouse gas emissions information SOP No. 03-2, as guideline documents for second- and third-party verification audits
5. Maintain, with the modifications suggested in this paragraph, the requirement in Paragraph (b) that “~~independent~~ verifiers must provide a written description of the relevant qualifications, ~~and~~ professional certifications, and collective competence of the persons that performed the ~~independent~~ verification, including a statement attesting that the verifier(s) and, if applicable, the firm employing the verifiers, are free from bias and conflict of interest, and must certify that:”
6. Delete the word “further” in Sub-Paragraph (b) (2).
7. Replace the definition of “independent” in Sub-Paragraph (a) (1) with the following: “means that the verifiers are independent of the activity being verified and are free from bias and conflict of interest.”
8. Replace the definition of “qualified” in Sub-Paragraph (a) (2) with the following: “means that verifiers, individually or as a team, have the necessary competence to conduct verification of greenhouse gas emissions quantification, monitoring and reporting activities, and that they, or the firm that employs them:
 - A. have systems which ensure knowledge of the technological and legal developments relevant to greenhouse gas verification in the technical area(s) in which they operate;
 - B. have an effective system for the analysis of the competencies in greenhouse gas quantification, monitoring, and reporting which it needs to have available, with respect to all the technical areas in which it operates;
 - C. be able to demonstrate that it has performed a competence analysis (assessment of skills in response to evaluated needs) of the requirements of each relevant technical area prior to undertaking the contract review for each client. In particular, verifiers should be able to demonstrate that they have the competence to complete the

following activities:

- (i) identify the typical greenhouse gas sources and sinks of the areas of activity of the technical area;
- (ii) define the competencies needed by the verifier(s) to verify accurately the quantification, monitoring, and reporting of greenhouse gas emissions, sinks and removals in relation to the identified technical areas.

This concludes our remarks on Section 300.11, Independent verification. We thank you for the opportunity to present our analysis and recommendations to you.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Shideler". The signature is fluid and cursive, with the first name "John" being more prominent.

John C. Shideler, PhD
President